

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PEOPLE OF THE UNITED STATES OF
AMERICA, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. [17-cv-00451-JD](#)

**ORDER OF DISMISSAL WITH
PREJUDICE**

Re: Dkt. No. 22

Attorney Andrew W. Shalaby filed this case on behalf of the “People of the United States of America and the State of California” to enjoin and invalidate as unconstitutional an executive order issued by President Donald Trump on January 27, 2017 for “Protecting the Nation from Foreign Terrorist Entry into the United States.” Dkt. No. 1. The Court dismissed the complaint for lack of Article III standing by a specific named plaintiff. Dkt. No. 11.


The amended complaint, Dkt. No. 21, is dismissed for the same reason. It makes the same generalized reference to the “people of the United States” as plaintiffs that the Court found deficient in the prior order. *Id.*; *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 575 (1992); *Drake v. Obama*, 664 F.3d 774, 779 (9th Cir. 2011). The “statements of support” tendered by attorney Shalaby in a request for judicial notice are no cure for this fundamental standing problem. The statements are almost certainly not appropriate for judicial notice, *see* Fed. R. Evid. 201, and in any event none of the individuals are actually named as plaintiffs in the amended complaint or otherwise mentioned in it.

Reliance on a “private Attorney General” theory, Dkt. No. 21 ¶ 1, is equally unavailing. The Article III showing is an “irreducible constitutional minimum” that this purported theory cannot satisfy. *Lujan*, 504 U.S. at 560 (1992).

Shalaby has now had two opportunities to present a cognizable complaint, and he was given express guidance from the Court on how to fix the standing problem. The Court has no reason to believe that another round of amendment will produce a different outcome or a cognizable complaint. Consequently, the complaint is dismissed with prejudice. *See Guzman v. Sogge*, 2014 WL 11904579, at *3 (N.D. Cal. May 13, 2014), *aff'd*, 599 Fed. Appx. 329 (9th Cir. 2015).

IT IS SO ORDERED.

Dated: December 7, 2017



JAMES DONATO
United States District Judge